

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

Mustafa Abdullah,)	
)	
Plaintiff,)	
)	
v.)	No. 4:14-cv-1436
)	
County of Saint Louis, Missouri,)	
)	
Ronald K. Replogle, in his official capacity)	
as Superintendent of the Missouri Highway)	
Patrol, and)	
)	
John Does 1-5, in their individual capacities,)	
)	
)	
Defendants.)	

VERIFIED COMPLAINT

INTRODUCTION

1. This is a civil rights action filed by Mustafa Abdullah, an individual who, like many others, has been ordered without lawful justification to refrain from standing for more than five seconds on public sidewalks in the City of Ferguson or face arrest. He challenges the practice of ordering individuals who are violating no law to refrain from gathering or standing on public sidewalks and threatening arrest for a failure to comply.

2. There are a large number of demonstrators who have taken to the public streets and sidewalks of Ferguson, Missouri, to express their opinions about how local law enforcement officials conduct themselves. As of the morning of August 18, 2014, Defendants have responded by enforcing a practice of ordering individuals who are violating no law to refrain from gathering

or standing for more than five seconds on public sidewalks and threatening arrest for non-compliance.

3. Plaintiff asks this court to enjoin the practice of ordering individuals who are violating no law to refrain from gathering or standing for more than five seconds on a public sidewalk and threatening arrest for non-compliance, declare the practice unconstitutional on its face and as-applied, and award nominal damages.

JURISDICTION AND VENUE

4. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 over Plaintiff's civil action arising under the Constitution of the United States.

5. In addition, this Court has original jurisdiction pursuant to 28 U.S.C. § 1343(a)(3) to redress the deprivation, under color of state law, of any right, privilege, or immunity secured by the Constitution of the United States.

6. Venue lies in the United States District Court for the Eastern District of Missouri because a substantial part of the events giving rise to Plaintiff's claims occurred in the County of Saint Louis, Missouri. 28 U.S.C. § 1391(b)(2).

7. Divisional venue is in the Eastern Division because the events leading to the claim for relief arose in the County of Saint Louis, which is located in the County of Saint Louis, Missouri. E.D. Mo. L.R. 2.07(A)(3), (B)(1).

PARTIES

8. Plaintiff, Mustafa Abdullah, resides in Missouri.

9. Defendant County of Saint Louis, Missouri, is a political subdivision of the State of Missouri and is participating in and directing law enforcement officers' practice of ordering

individuals who are violating no law to refrain from gathering or standing for more than five seconds on public sidewalks and threatening arrest for non-compliance.

9. Defendant Ronald K. Replogle is sued in his official capacity as Superintendent of the Missouri State Highway Patrol. The Missouri State Highway Patrol is an agency of the State of Missouri and is participating in and directing law enforcement officers' practice of ordering individuals who are violating no law to refrain from gathering or standing for more than five seconds on public sidewalks and threatening arrest for non-compliance.

10. Defendants John Doe 1 – 5 are individual police officers sued in their individual capacities. On August 18, 2014, they ordered Plaintiff, and others, to refrain from gathering or standing for more than five seconds on public sidewalks and threatened with arrest for non-compliance.

11. Plaintiff is unable to identify the individual officers at this time because they had removed their nametags.

12. All actions by Defendants, their officers, employees, or agents, described herein are taken under color of state law.

FACTS

13. On August 9, 2014, a police officer of the City of Ferguson's police department shot and killed Michael Brown, who was unarmed.

14. Many members of the community have responded with anger at the police.

15. As a result, there have been frequent demonstrations on the public streets and sidewalks of Ferguson.

16. At these demonstrations, protestors are voicing their opinions about such issues of public concern as the relationship between police and the community, the frequency with which police officers shoot unarmed black men, and the militarization of local police forces.

17. Defendants' response to the demonstrations, including the use of force, ordering peaceful protestors to disband and evacuate the streets and sidewalks, placing restrictions on the ability of the media to witness and report on unfolding events, and ordering protestors and observers to stop documenting and videotaping the demonstrations, has been controversial.

18. There is widespread interest in Defendants' tactics, which raise questions about whether a military response to protest is consistent with the values of the United States, as well as the lack of transparency in the handling of the shooting investigation and response to the unrest that followed.

19. Beginning around 11:00 a.m. on August 18, 2014, the American Civil Liberties Union of Missouri received reports that law enforcement officials were ordering individuals who are violating no law to refrain from gathering or standing for more than five seconds on public sidewalks and threatening arrest for non-compliance.

20. Plaintiff went to Ferguson to investigate the reports.

21. On five separate occasions within a period of approximately one hour at different locations, Plaintiff was ordered by law enforcement officials to refrain from gathering or standing for more than five seconds on public sidewalks and threatened with arrest for non-compliance.

22. Plaintiff was at no time violating any law.

23. Numerous other individuals in the area, including members of the media, were similarly ordered by law enforcement officials to refrain from gathering or standing for more

than five seconds on public sidewalks and threatened with arrest for non-compliance. They, too, were violating no law.

24. When inquiries were made to law enforcement officers regarding which law prohibits gathering or standing for more than five seconds on public sidewalks, the officers indicated that they did not know and that it did not matter. The officers further indicated that they were following the orders of their supervisors, whom they refused to name.

25. Upon information and belief, Defendants have arrested multiple individuals today for gathering or standing for more than five seconds on public sidewalks.

COUNT I
Violation of First and Fourteenth Amendments
to the United States Constitution

26. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as if set forth here verbatim.

27. Defendants' policies and actions directly infringe upon and chill reasonable persons from engaging in activity that is protected by the First Amendment, including peaceful assembly on a public sidewalk and standing on a public sidewalk to engage in conversation with others.

28. Defendants have deprived, and continue to deprive, Plaintiff of his rights under the First Amendment to the United States Constitution, which are incorporated through the Fourteenth Amendment. Defendants' orders to individuals who are violating no law to refrain from gathering or standing for more than five seconds on public sidewalks and threatening arrest for non-compliance is the cause-in-fact of the constitutional violations.

29. Upon information and belief, unless restrained by this Court, Defendants will continue their practice of ordering individuals who are violating no law to refrain from gathering

or standing for more than five seconds on public sidewalks and threatening arrest for non-compliance, as well as arresting individuals who have violated no law.

COUNT II
Violation of Due Process Clause of
Fourteenth Amendment to the United States Constitution

30. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as if set forth here verbatim.

31. Plaintiff is aware of no law that permits Defendants to order Plaintiff or any other individual violating no law to refrain from gathering or standing for more than five seconds on public sidewalks.

32. The practice described herein fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibited, and authorizes and encourages arbitrary and discriminatory enforcement.

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. Upon proper motion, issue a temporary restraining order and preliminary injunction prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from ordering individuals who are violating no law to refrain from gathering or standing for more than five seconds on public sidewalks, threatening them with arrest for non-compliance, or arresting them;
- B. Enter declaratory judgment, pursuant to 42 U.S.C. § 1983, that Defendants' practice violates the Constitution;
- C. Enter a permanent injunction prohibiting Defendants, their officers, employees, or agents, and those acting on their behalf or in concert with them from ordering

individuals who are violating no law to refrain from gathering or standing for more than five seconds on public sidewalks, threatening arrest for non-compliance, or arresting them.

- D. Award Plaintiff nominal damages against Defendants other than Replogle;
- E. Award Plaintiff costs, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988 or any other applicable law; and
- F. Allow to Plaintiff such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Anthony E. Rothert
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ATTORNEYS FOR PLAINTIFF

Verification

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

/s/ Mustafa Abdullah